Mental Health Evaluations (MHE)

Enabling Learning Objectives

ELO

Mental Health Evaluations

1. Describe the two types of Mental Health Evaluation IGARs.
2. Identify what office can work Mental Health Evaluation cases and how that office handles those cases.

What does improper MHE referral mean to the IG?

- Soldiers have the right to raise matters of fraud, waste, and abuse or other improprieties within the Army without fear of reprisal.
- Isn't this the same bullet from the Whistleblower block?
- Sergeant Frank "Greg" Ford and Abu Ghraib, Iraq

A Case Study: Sergeant Ford

Mental Health Evaluations

- **Chronology**

Prior to 15 Jun 03 - CPT Merle Madera, Army Psychiatrist, evaluated Sergeant Frank "Greg" Ford, counterintelligence agent, 223rd Military Intelligence Battalion, California National Guard, deployed to Samarra, Iraq, and diagnosed him as "normal."

15 Jun 03 - Sergeant Ford told his commanding officer, CPT Victor Artiga, that he had witnessed five incidents of torture and abuse of Iraqi detainees at his base and requested a formal investigation.

17 Jun 03 - Thirty-six hours later, Ford, a 49-year-old with over 30 years of military service in the Coast Guard, Army, and Navy, was ordered by U.S. Army medical personnel to lie down on a gurney. He was then strapped down, loaded onto a military plane, and evacuated to Landstuhl Regional Mental Health Facility for an MHE.

Source: "Whitewashing Torture?" found at http://www.salon.com/news/feature/2004/12/08/coverup/print.html and "Military Medicine on Trial" found at http://www.soeken.lawsonline.net/articles/MilitaryMed.htm

A Case Study: Sergeant Ford

Mental Health Evaluations

- **Chronology (cont.)**

Early 2004 - Sergeant Ford is discharged after spending almost one year in a variety of Army psychiatric centers.

- **Other evidence**

CPT Madera's commanding officer and CPT Artiga ordered CPT Madera to change her diagnosis to "mentally unstable" and to get Sergeant Ford "out of theater immediately."

COL Charles Tsai, Chief of Psychiatry, Landstuhl Regional Mental Health Facility, said that numerous Soldiers were evacuated there from Iraq for MHEs and that they all had similar stories. The Soldier would make a formal complaint of detainee abuse or of some other serious wrongdoing and was almost immediately evacuated to Landstuhl for an MHE.

Source: "Whitewashing Torture?" found at http://www.salon.com/news/feature/2004/12/08/coverup/print.html and "Military Medicine on Trial" found at http://www.soeken.lawsonline.net/articles/MilitaryMed.htm

MHE Standards

Mental Health Evaluations

- DoD Directive 6490.1 (Policy / Rules) **Mental Health Evaluations of Members of the Armed Forces (1 October 1997)**
- DoD Instruction 6490.4 (How to do it) **Requirements for Mental Health Evaluations of Members of the Armed Forces (28 August 1997)**
- **AR 20-1, paragraph 7-4d**
- **Chapter 9 and Appendix E, The A&I Guide**
- **www.dtic.mil/whs/directives**

DoD Directive 6490.1

Mental Health Evaluations

- **Updates policy and assigns responsibilities for referral, evaluation, and management, to include:**
  - **Protection of Service Member's (SM) rights**
  - **Prohibition of reprisal**
  - **Requires Commanders to be alert to potentially dangerous SMs and to take actions to reduce danger**
  - **Establishes standards for Mental Health Care Providers (MHCP) to assess risk and prevent dangerous behavior**

DoD Directive 6490.1 Responsibilities

Mental Health Evaluations

- Assistant Secretary of Defense for Health Affairs:
  - **Implements DoD Instruction (DoDI) / oversees DoD Directive (DoDD)**
- IG, DoD:
  - **Conducts / oversees investigations**
- Secretaries of the Military Departments:
  - **Implement DoDD / DoDI and establish procedures for reporting violations to IG, DoD**

Responsibilities (cont'd)

Mental Health Evaluations

- **Service Inspector General (DAIG):**
  - **Mostly oversight (can investigate / inquire)**
  - **Provide IG, DoD, with interim reports, and ROIs**
- **Command / Local IG:**
  - **Report to IG, DoD, within two working days with copy to DAIG Assistance Division (SAIG-AC)**
  - **Investigate / inquire**

DoD Instruction 6490.4

Mental Health Evaluations

- Implements DoD policy**, assigns responsibility, and prescribes procedures**

- Establishes procedures
  - **Psychiatric hospitalization**
  - **Protect SMs' rights**

- Provides guidance to Mental Health Care Providers and Commanders
  - **Sample notification memos**

MHE: Definition and Types

Mental Health Evaluations

- **Definition: a clinical assessment for a mental or personality disorder to determine a Soldier's mental health status, fitness, and/or suitability for service**
- **Types:**
  - **Non-emergency (routine)**
  - **Emergency**
    - **Threatening words or actions that suggest imminent violent behavior (dangerousness)**
    - **To delay a MHE in order to complete administrative requirements would further endanger SM or victims**

Not MHEs

Mental Health Evaluations

IGs can inquire into discretionary MHEs

- **Self-referrals**
- **Family Advocacy Program**
- **Drug / alcohol rehab programs**
- **Responsibility and competency inquiries (Rule 706 of the Manual for Courts-Martial)**
- **Diagnostic referral by non-mental healthcare providers**
  - **SM consents**
- **Required for service regulation without discretionary authority by the SM's Commander**

Why should a commander refer a Soldier for an MHE?

DoDD 6940.1 defines Mental Disorder as "A clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (e.g., a painful symptom) or disability (e.g., impairment in one or more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability, or an important loss of freedom. In addition, this syndrome or pattern must not be merely an expectable and culturally sanctioned response to a particular event; for example, the death of a loved One."

Authority to Perform MHE

Mental Health Evaluations

- **Psychiatrists, Clinical Psychologists, or Social Workers certified and designated on orders**

- **Commander may refer SM to physician or to senior privileged non-MD provider pending evaluation by a privileged doctoral-level Mental Health Care**

Voluntary vs. Involuntary Hospitalization

- Voluntary admission:
  - **Provider determines what is clinically indicated**
  - **but SM has capacity to make informed decision and voluntarily consents**
- Involuntary admission:
  - **Provider makes judgment that level of care cannot be less restrictive**

Protection Against Improper Involuntary Hospitalization

Mental Health Evaluations

- Involuntary psychiatric hospitalization continues when the provider determines:
  - **Serious mental disorder**
  - **Increased risk for imminently dangerous behavior**
  - **Condition treatable at Medical Treatment Facility**

and

  - **SM refuses continued in-patient treatment or lacks mental capacity to make an**

Complaints of Improper MHEs

Mental Health Evaluations

ELO 1

- **Procedural errors:**
  DoDD 6490.1 / DoDI 6490.4

- **Reprisal:**
  10 USC 1034 / DoDD 7050.06

IG Actions

ELO 2

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- Reprisal
  - Report within five working days to SAIG-AC and two days to IGARS
  - **Same as any WB Reprisal**
  - **Local IG inquiry or investigation**
- Procedural
  - Report within two working days to SAIG-AC and two days to IGARS
  - **Local IG inquiry or investigation**

MHE Procedures

Mental Health Evaluations

- Commanding

  officer's actions

- **Mental Health Care Provider actions**

Commanding Officer Actions

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- **Consults with a MHCP**
- **If no MHCP available, Commander consults physician or senior privileged non-physician provider**
- **For non-emergency referrals, forward memo requesting MHE to Commander of Medical Treatment Facility (MTF) or clinic**
- **If the SM's commanding officer is the Commander of the MTF or clinic, send request to chairman of MH department**

Commanding Officer Actions Non-Emergency MHE

- At least two days in advance, provide a memo to the SM that includes:
  - Description of behaviors / verbal communications
  - Names of MHCPs consulted
  - Notification of SM's statement of rights
  - Date, time, and place of MHE / name and rank of MHCP
  - Titles and phone numbers
  - Name and signature of Commander

Commanding Officer Actions Non-Emergency MHE

- Have SM sign memo, acknowledging advised of reasons and rights
- If SM refuses or declines, Commander states why
- Copy of memo to SM and MHCP

NOTE: SM can't waive right to receive written memo and be notified of his or her rights

Service Member (SM) Rights

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- **Have** at least two days (except in emergencies) **to consult with an IG, attorney, chaplain, or other**
- **Seek second opinion (own expense)**
- **No restrictions on communication with Member of Congress, IG, or others**
- **Reasons for not complying with**

Mental Health Care Provider Actions

Mental Health Evaluations

- **Prior to non-emergency MHE, determine if referral was followed IAW DoDD and DoDI**
- **If improper, confer with command**
- Advise SM:
  - **Purpose, nature, and likely consequences of MHE before evaluat**
  - **MHE is not confidential**
- **After evaluation, sends a** memo to SM's Commander with results and recommendations

Commanding Officer Actions for Emergency MHE

- **First priority: Protect SM and potential victims from harm**
- **Prior to referral, try to consult MHCP or other privileged HCP**
- **Safely get SM to provider**
- **As soon as practical, provide SM a memo and statement of rights**
- **If can't consult with provider before transporting SM, forward memo to provider as soon as practical**

SM Rights Involuntary Psychiatric Hospitalization

- **Contact relative, friend, chaplain, attorney, and / or an IG ASAP after admission**
- **Be evaluated within 24 hours**
- **If attending psychiatrist determines that continued hospitalization is necessary, notify SM as to the reasons both** orally and in writing
- **Review of circumstances and clinical indications leading to involuntary psychiatric hospitalization and appropriateness of continued involuntary hospitalization and**

Independent Review Continued Hospitalization

- **Within 72 hours, privileged psychiatrist or other medical officer:**
  - **Reviews factors leading to involuntary admission**
  - **Assesses appropriateness of continued involuntary hospitalization**
  - **Reviews, documents actions taken, and examines SM**
  - **Notifies SM of right to legal representation**

Post-MHE: MHCP

Mental Health Evaluations

- **Recommendations to Commander**
  - **Proposed treatments**
  - **Precautions**
  - **Fitness and suitability for continued service**
    - **Does SM meet retention standards?**
    - **Medical Evaluation Board**
    - **Administrative separations (recommendations for separation from service must be co-signed by MHCP's Commander)**

Post-MHE: Commander

Mental Health Evaluations

- **Make written record of MH recommendation**
- **If MHCP recommended separation and SM's Commander declines recommendation, Commander forwards memo to his or her Commander within two business days explaining the decision**

Combat Stress Referral

Mental Health Evaluations

- **Referral to a Combat Stress Team is a “screening” to see if Soldiers are staying focused on the right missions (FM 8-51, FM 22-51, FM 4-02.51, and AR 11-XX is in draft / staff work-up).**

- **Soldiers may be informally referred by self or by command**
  (only requires a note or call from the commander).

- **Provides commanders in a combat environment with the capability to identify and deal with potential problems before they occur and allows Soldiers to deal with the stress in the right manner and under appropriate medical supervision.**

- **Does Combat Stress Referral fall under the provisions of DoDD 6490.1 and DoDI 6490.4? "NO. But if the commander was seeking feedback, you must ensure it wasn’t an MHE in disguise.”**

Stigma

Mental Health Evaluations

- **In a memorandum dated 18 March 2008, Subject: Policy Implementation - Mental Health Question, Standard Form (SF) 86, Questionnaire for National Security Positions, the SECDEF directed that all individuals responding to Question 21 will "answer 'No' if the counseling was ... strictly related t adjustments from service in a military combat environ**

- **Individuals are also directed to answer "No" to counse related to marital, family, and grie**
- **The only qualifier is that the counseling was not court ordered.**
- **In an article dated 12 January 2009, Subject: Army May End Counseling Notices, *USA Today* reports that Army Secretary Pete Geren explained that Army Leaders are considering ending the requirement that commanding officers be notified when a Soldier voluntarily seeks counseling. This change will hopefully encourage more GIs to seek aid without fear of a stigma.**

Stigma (Con't)

Mental Health Evaluations

ALARACT 188/2009 USE OF TERM "BEHAVIORAL" HEALTH IN LIEU OF "MENTAL" HEALTH, DTG 251247Z JUN 09. In an effort to reduce the stigma associated with the provision of "mental" health services, OTSG/MEDCOM Policy Memorandum 09-240 directs; that the term "behavioral" health be used in lieu of "mental" health as existing policies, regulations, training and informational documents are updated/revised; and, as new policies, regulations, training and informational documents are developed, the term "behavioral" health be used in lieu of "mental" health. See the message for more information.

Questions?